IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Crl.MC.No. 3392 of 2007()

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AGAINST THE ORDER DATED / / IN LPC.58/2001 IN CP.22/2001 of JUDL. MAGISTRATE OF FIRST CLASS, KASARAGOD CRIME NO.772/95.

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PETITIONER: ACCUSED

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HARIS, S/O MOHAMMED,
NAIMARAMOOLA, KASARAGOD.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

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STATE OF KERALA, SHO OF KASARAGOD
POLICE STATION, REP. BY THE PUBLIC PROSECUTOR,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**Crl.M.C.No. 3392 OF 2007**

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**Dated this the 12th day of November, 2007**

**ORDER**

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Sec.307 read with Sec.149 of the IPC. Investigation is complete. Final report has already been filed. Cognizance was taken by the learned Magistrate. Committal proceedings was registered. Consequent to the non-appearance of the petitioner, the case against him has been transferred to the list of Long Pending Cases. The petitioner has not entered appearance so far even though the crime was registered as early as in 1995, the committal proceedings was registered in 2001 and the case was transferred to the list of Long Pending Cases also in 2001 as can be seen from the number assigned to the case as L.P.C.No.58/01. Coercive processes have been issued against

the petitioner by the learned Magistrate. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police**

(2003 (1) KLT 339).

4. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

**(R. BASANT, JUDGE)**

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P.S. to Judge